



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/704,896	11/02/2000	Richard Hayton	2006579-0221	4523
24280	7590	02/24/2006	EXAMINER	
CHOATE, HALL & STEWART LLP			TRAN, QUOC A	
TWO INTERNATIONAL PLACE			ART UNIT	
BOSTON, MA 02110			PAPER NUMBER	

2176

DATE MAILED: 02/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/704,896

Applicant(s)

HAYTON ET AL.

Examiner

Quoc A. Tran

Art Unit

2176

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-11 and 13-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-11 and 13-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/28/2005.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This action is responsive to communications: RCE filed on 11/28/2005 (original filing date of 11/02/2000).
2. Claims 1, 3-11, 13-15, and 17-18 are pending. Claims 1, 11 and 15 are independent claims.

### ***Continued Examination Under 37 CFR 1.114***

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/28/2005 has been entered.

### ***Response to Arguments***

4. Applicant's arguments with respect to claim 1, 3-11, 13-15, and 17-18 have been considered but are Applicant's arguments filed 11/28/2005 have been fully considered but they are not persuasive.
5. In response to applicant's arguments on pages 2-4, for claims 1, 3-11, 13-15, and 17-18, Applicant argues the rejection under 35 USC 103, Obviousness (see Remarks, pages 2-4). To concisely address the elaborate arguments presented, the Examiner respectfully disagrees for the detailed reasons stated in the rejection of each claim limitation previously presented in

Art Unit: 2176

Office Action mailed 06/28/2005 and a copy attaching below (please see rejections for detail).

In further support of the previous Office Action, please note the following:

Additionally, the main thrust of the applicant's argument is Nazem alone or in combination with Jeyaraman are not teaching (i) the step of receiving, by a client, a modified version of one of the dynamic portions of the page and an identifier specifying one of the plurality of dynamic portions of the transmitted page to be replaced by the modified version of one of the dynamic portions.

Using the broadest reasonable interpretation of the claims, as for (i) (see Nazem col. 5, line 40 through col. 6, line 20), discloses a dynamic page generator, wherein a user front page 218 returned by page server 104. User front page 218 as shown in FIG. 5 includes many elements, some of which are described here in further detail, wherein the User front page 218 is built according to a user template and live data. The user template specifies, for example which quotes are shown in the portfolio module, which cities are displayed in the weather module, etc.

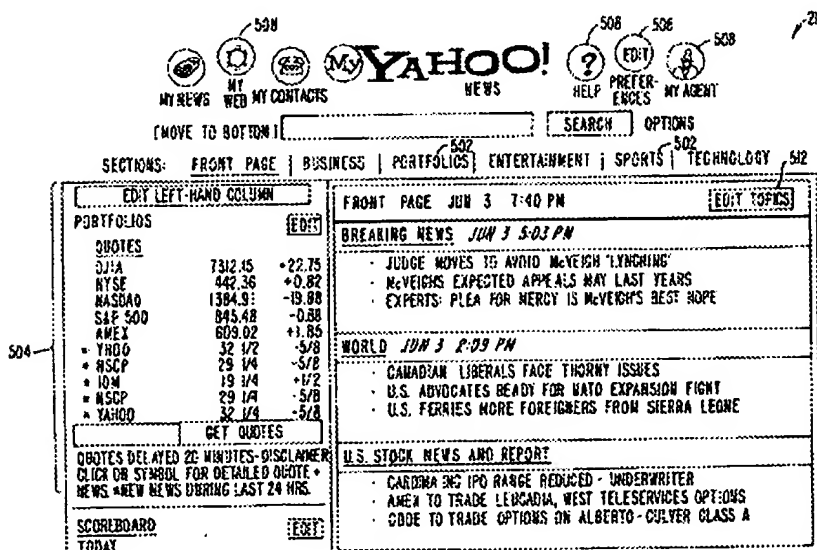


FIG. 5A.

Therefore the request for reconsideration has been considered but does not place the application in condition for allowance for at least the reason set forth above and the following rejection set forth below.

***Claim Rejections - 35 USC § 101***

5. 35 U.S.C. 101 reads as follows:

*Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.*

6. **Claims 1, and 3-10** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1, and 3-10 set forth functional descriptive material but fail to set forth physical structures or materials comprising of hardware or a combination of hardware and software within the technological arts (i.e. a computer) to produce a "useful, concrete and tangible" result.

Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. See, e.g., Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760.

For example, claims 1, and 3-10, the "method" reads on a mental construct/abstract idea or at bests a computer program, per se. The language such as " A method of incorporating a dynamic portion of a transmitted page into a previous version of the transmitted page displayed on a client... comprising:..., is not tangibly embodied on a computer readable medium or hardware. Claims 1, and 3-10 is interpreted as software per se, abstracts ideas or mental construct and not tangibly embodied on a computer readable medium or hardware.

To overcome this type of 101 rejection the claims need to be amended to include a computer program is recited in conjunction with a physical structure, such as a computer memory (i.e. hardware) of causing functional change in the computer.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

*(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.*

8. **Claims 1, 3-11, 13-15 and 17-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over Nazem et al US005983227A - filed 06/12/1997 (hereinafter Nazem), in view of Jeyaraman US Patent No. 6,311,187 B1 - filed 12/29/1998 (hereinafter Jeyaraman).

**In regard to independent claim 1, (a) receiving, at the client, a transmitted page comprising a plurality of dynamic portion** (Nazem at col. 5, line 50 through col. 6, line 21, discloses dynamic page generator, wherein the user front page returned by page server includes plurality of elements which are build according to a user template and live data, i.e. a user template are specific module that is customize and reusable set by user such as, stock quote module weather module, news module and so on. live data illustrating in Fig. 5, wherein the live data being stored in a shared memory and intelligently flushed the older cache and regenerate for displaying the most recent information to the appropriate portion and/or module with correct time and date for particular user),

**(b) displaying the transmitted page on the client** (as taught by Nazem at col. 1, line 65 through col. 2, line 5),

**(d) incorporating, by the client, the modified version of one of the dynamic portions into the transmitted page displayed on the client responsive to the modification list** (Nazem at col. 5, line 50 through col. 6, line 21, discloses dynamic page generator, wherein the user front page returned by page server includes plurality of elements which are build according to a user template and live data, i.e. a user template are specific module that is customize and reusable set by user such as, stock quote module weather module, news module and so on. live data illustrating in Fig. 5, wherein the live data being stored in a shared memory and intelligently flushed the older cache and regenerate for displaying the most recent information to the appropriate portion and/or module with correct time and date for particular user),

Nazem does not explicitly teach, **(c) receiving by the client, a modified version of one of the dynamic portion of the page and by an identifier specifying one of the plurality of the dynamic portions into the transmitted page to be replaced by the modified version of one of the dynamic portions**, however (Jeyaraman at col. 2, lines 5-25, discloses a system and method of propagating updates efficiently in hierarchically structured data under a push model to client comprising: (1) determining differences between the current version of the data at the server and an older copy of the data at the client, which the server has stored locally; (2) using the differences to construct an update for the copy of the data, which may include node insertion and node deletion operations for hierarchically organized nodes in the data; and (3) sending the update to the client where the update is applied to the copy of the data to produce an updated copy of the data. According to one aspect of the present invention, the act of determining

differences, and the act of using the differences to construct the update both take place during a single pass through the data. Further more the update for the copy of the data may include node copy, node move, node collapse, node split, node swap and node update operations).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified teaching of Nazem, provides dynamically generating content of a web document, to include a means of propagating updates efficiently in hierarchically structured data under a push model of Jeyaraman. One of the ordinary skills in the art would have been motivated to perform such a modification to provide the efficient method to simply send the changes to data instead of sending a complete copy of the data (as taught by Jeyaraman at col. 1, lines 45-50).

**In regard to independent claim 11**, incorporate substantially similar subject matter as cited in claim 1 and is similarly rejected along the same rationale.

**In regard to independent claim 15**, incorporate substantially similar subject matter as cited in claim 1 and further of the following and is similarly rejected along the same rationale, an external page code source (Nazem at col. 1, line 60 through col. 2, line 25, discloses a custom page server, i.e. custom page server is reasonably equivalent to the claimed invention such as external page code source, external page code source).

**In regard to dependent claim 3**, incorporate substantially similar subject matter as cited in claims 1 and 15 and is similarly rejected along the same rationale.

**In regard to dependent claims 4-6 and 9-10**, incorporate substantially similar subject matter as cited in claim 1 and is similarly rejected along the same rationale.



**In regard to dependent claim 7**, incorporate substantially similar subject matter as cited in claim 1 and further in view of the following and is similarly rejected along the same rationale, **saving the first portion in the storage buffer** (Nazem at col. 3, lines 59-65, discloses a share memory for storing live data, i.e. first portion).

**In regard to dependent claim 8**, incorporate substantially similar subject matter as cited in claim 1 and is similarly rejected along the same rationale.

**In regard to dependent claims 13**, incorporate substantially similar subject matter as cited in claims 1 and 15 and is similarly rejected along the same rationale.

**In regard to dependent claims 14 and 17-18**, incorporate substantially similar subject matter as cited in claims 1, 7 and 15 and is similarly rejected along the same rationale.

### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quoc A. Tran whose telephone number is (571) 272-4103. The examiner can normally be reached on Monday through Friday from 9 AM to 5 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Herndon R. Heather can be reached on (571) -272-4136. The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300.

Art Unit: 2176

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

---

Quoc A, Tran  
Patent Examiner  
Technology Center 2176  
February 11, 2006

*William L. Bashore*  
WILLIAM BASHORE  
PRIMARY EXAMINER  
2/20/2006